

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, EX REL.  
RAÚL TORREZ, ATTORNEY GENERAL,

Plaintiff,

- v. -

META PLATFORMS, INC.; INSTAGRAM, LLC;  
META PAYMENTS, INC.; META PLATFORMS  
TECHNOLOGIES, LLC; and MARK  
ZUCKERBERG,

Defendants.

**PLAINTIFF STATE OF NEW  
MEXICO'S REPLY IN SUPPORT  
OF MOTION TO EXPEDITE**

Civil Action No. 1:23-cv-01115-  
DLM-KK

*Removed from First Judicial District  
Court, County of Santa Fe, New  
Mexico, Case No. D-101-CV-2023-  
02838*

**PLAINTIFF STATE OF NEW MEXICO'S REPLY  
IN SUPPORT OF MOTION TO EXPEDITE**

Plaintiff, the State of New Mexico, submits this brief reply memorandum in support of its Motion to Expedite briefing in connection with its Motion to Remand:

1. As noted in the Motion to Expedite, this case is subject to a Conditional Transfer Order (CTO-24) noticing the Judicial Panel on Multidistrict Litigation's ("JPML") intent to transfer the suit into *In re: Social Media Adolescent Addition/Personal Injury Prods. Liab. Litig.*, MDL No. 3047. The State filed its Notice of Opposition to the Conditional Transfer Order on December 26, 2024. On December 27, the JPML set a briefing schedule for the State's opposition, pursuant to which the State's Opposition is due on January 10, 2024, Meta's response is due on January 31, 2024 and any reply is due on February 7, 2024. Thus, the State learned for the first time today that the JPML will not rule on CTO-24 at its January 24, 2024 hearing.

2. Nevertheless, the improper removal of this proceeding to federal court has frustrated the State's efforts to move this case forward. For example, Defendants have refused to

respond substantively concerning whether redacted material in the Complaint may be unredacted. The State originally sought to have this conversation on December 6 – one day after the Complaint was filed – but Meta’s counsel has refused to engage in substantive discussions, other than to advise that a January 12 deadline in the MDL should govern the parties’ discussions. Had Defendants not improperly removed this action, the State could have filed a motion to unseal in state court. By failing to engage in a meaningful way on this issue, Defendants effectively seek to use removal as a sword knowing that the State is presently limited in its avenues of relief. *See Village Apartments Co., L.P. v. Asset Shelters Grp., Inc.*, No. 1:07-cv-817 MCA/RLP, 2008 WL 11414603, at \*3 (D.N.M. Apr. 29, 2008) (“A party who undertakes affirmative action in the federal district court may be found to have waived any objections to removal.”).

3. Further, Defendants’ assertion that “the MDL court is likely better positioned than this court to decide” the motion to remand is incorrect. (Opp., p. 4.) The MDL has not heard any remand motions by State Attorneys General. Rather, the “COPPA claims and allegations brought by 33 other State Attorneys General” were voluntarily filed by those Attorneys General into the MDL. Unlike the State of New Mexico, those States purposefully availed themselves of federal jurisdiction and asserted federal causes of action that New Mexico expressly disclaimed in its Complaint. The MDL court thus is not “deeply familiar with the issues raised by the State’s remand motion,” as Defendants assert. (Opp., p. 5.) To the contrary, the State submits that a New Mexico court is better suited to interpret the scope of claims asserted under New Mexico law than a federal court in California, which would set its own timeframe for considering the State’s motion to remand.

## **CONCLUSION**

For the foregoing reasons, the State requests that this Court grant the State's Motion to Expedite.

RESPECTFULLY SUBMITTED this 27th day of December, 2023.

**RAÚL TORREZ**  
**ATTORNEY GENERAL OF NEW MEXICO**

/s/ James W. Grayson

**JAMES W. GRAYSON**  
**CHIEF DEPUTY ATTORNEY GENERAL**

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(*Pro Hac Vice* Petitions Submitted)